

## THOMAS CRUSE MINING & DEVELOPMENT CO.

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JANUARY 30, 1958.—Committed to the Committee of the Whole House and ordered  
to be printed

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Mr. LANE, from the Committee on the Judiciary, submitted the  
following

### REPORT

[To accompany S. 652]

The Committee on the Judiciary, to whom was referred the bill (S. 652), for the relief of Thomas Cruse Mining & Development Co., having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE

The purpose of the proposed legislation is to pay the Thomas Cruse Mining & Development Co. \$7,500 in full settlement of its claims against the United States for the damage to its mining mill near Marysville, Mont., and the machinery and equipment it contained, on October 8, 1942, as a result of demolition operations by United States Army personnel.

#### STATEMENT

In 1942 the 1st Special Service Force of the United States Army at Helena, Mont., was seeking places where troops in training could

conduct actual blasting operations. Permission was obtained from the lessee of the Thomas Cruse Mining & Development Co. property, with the approval of that company, that certain old machinery in the mill here concerned could be broken up by the use of explosives. The mill building and the other machinery it contained were not to be destroyed. However, after the blasting operations on October 8, 1942, a fire started and the mill building and all of the machinery it contained was destroyed.

The Thomas Cruse Mining & Development Co. filed a claim with the War Department in the amount of \$10,810.40 for the loss of the building and its equipment. After a consideration of the claim, the Army offered a settlement based on a payment of \$4,900.40. The company refused to settle on this basis on the ground that the amount was insufficient and contended that their claim had stated a figure which was a fair evaluation of the actual loss.

This difference as to the amount to be paid for the loss continues to be the principal issue in this matter. The bill as originally introduced provided for a payment of \$10,800. The Senate committee held a hearing, and heard representatives of both the company and the Army. The Senate Committee on the Judiciary, after considering the testimony and evidence before it, recommended that the bill be amended to provide for a payment of \$7,500.

The House Committee on the Judiciary has had the benefit of the transcript of the Senate hearings in its consideration of this matter. There is testimony in the record that a Montana lumber company, the Interstate Lumber Co., of Helena, Mont., stated that the mill building alone was worth \$7,500. After reviewing this testimony and the material in the Senate report, this committee agrees that the amount of \$7,500 is a fair and reasonable amount to be paid the company for the losses it sustained. Accordingly, this committee recommends that the bill be considered favorably.

The Senate report which comments further on the matter, and contains the statement of the Department of the Army opposing the bill and matter relevant to the claim, is as follows:

(S. Rept. No. 651, 85th Cong.)

The purpose of the proposed legislation, as amended, is to direct the Secretary of the Treasury to pay to the Thomas Cruse Mining & Development Co., of Helena, Mont., the sum of \$7,500 in full settlement of all claims of such company against the United States arising, when on October 8, 1942, its mining mill located near Marysville, Mont., and the machinery and equipment therein, were extensively damaged as the result of demolition operations carried on by personnel of the United States Army.

#### STATEMENT

A bill involving the same subject matter as the instant bill was postponed indefinitely by action of the full committee on April 30,

1951, 82d Congress. The report of the Department of the Army sets forth the facts in this case as follows:

The records of the Department of the Army show that in October 1942 the Thomas Cruse Mining & Development Co., Helena, Mont., was the owner of a certain mining mill, with machinery and equipment, near Marysville, Mont. The Silver Crescent, Inc., had a lease on this property with an option to buy, which was then in full force and effect. The mill was of frame construction and was erected about 1893. The more valuable pieces of machinery and equipment on the property included one 2-stage steam-driven Ingersoll-Rand compressor, and one 1-stage Ingersoll-Rand compressor, 5 wooden settling tanks, and one set of boiler tubes. The First Special Service Force, United States Army, then stationed at Helena, Mont., was seeking places where actual blasting operations could be conducted by troops under that command then in training. Prior to October 8, 1942, written permission was obtained from the Silver Crescent, Inc., the lessee of the aforementioned mining property, with the approval of the Thomas Cruse Mining & Development Co., the owner of the property, to break up by the use of explosives certain old machinery in this mill. It appears that the mill building and certain of the machinery were not to be destroyed in the blasting operations. Blasting operations were conducted on said mining property by troops of the First Special Service Force on October 8, 1942, and in the course of demolishing that which it was intended to destroy, and because of a fire which followed the explosions, the mill building and all of the machinery and equipment in connection therewith were severely damaged, including certain machinery which was not designated to be destroyed.

On October 27, 1942, the Thomas Cruse Mining & Development Co. filed a claim with the War Department (now Department of the Army) in the amount of \$10,810.40 for the damage caused to its mine building and certain machinery and equipment connected therewith as the result of the aforesaid blasting operations of the Army on October 8, 1942. The chief items of the claim consisted of \$5,000 for the damage to the 2 compressors, and \$2,500 for placing the mill equipment and a compressor in place and ready to operate. The War Department employed Mr. William R. Wade, of Marysville, Mont., a mining engineer of many years experience and who was thoroughly familiar with the property involved, to appraise the damage which had been sustained by the Thomas Cruse Mining & Development Co. Mr. Wade found that just prior to October 8, 1942, the mill was in a very poor state of repair and that the bulk of the machinery and equipment, particularly the large steam-driven compressor, was obsolete. It appears that the mill was revamped in 1906. The mill had not been in operation since 1916. It further appears that a Mr. Thornton, who had an option on the mine before the Silver Crescent, Inc., acquired its lease and option to buy, did not intend to use said mill at

all because of its bad state of repair and the obsolete character of the steam-driven compressor and other equipment. The Silver Crescent, Inc., when it acquired a lease of the property, did not attempt to use either the large steam-driven compressor or the smaller compressor, and did not attempt to use the old mill in any respect, but took over another mill about  $1\frac{1}{2}$  miles away and spent substantial sums of money in remodeling that mill for use. After a thorough investigation, Mr. Wade estimated that it would cost \$4,900.40 to restore the damaged property to the condition which it was in immediately prior to the blasting operations of October 8, 1942.

On October 19, 1944, the Under Secretary of War, acting for the Secretary of War, after a careful consideration of the entire record in this case, determined that the total damages sustained by the Thomas Cruse Mining & Development Co. as the result of the blasting operations of the United States Army on October 8, 1942, amounted to the sum of \$4,900.40 and approved its claim in that amount under the provisions of the act of July 3, 1943 (57 Stat. 372; 31 U. S. C. 223b), for report to the Congress for an appropriation for the relief of the claimant in said amount, provided that the claimant would agree to accept such sum in full satisfaction and final settlement of its claim. Thereafter on October 25, 1944, the Thomas Cruse Mining & Development Co. was advised by the War Department of the action taken on its claim, at which time there was transmitted to the claimant an acceptance agreement to be signed on behalf of the company if it agreed to accept the sum of \$4,900.40 in full satisfaction and final settlement of its claim. Up to the present time the claimant has not agreed to accept the approved amount in settlement of the claim.

On November 7, 1955, the subject mining company submitted correspondence to the Department of the Army "in an effort to have the matter settled equitably." The company contended that the Department was "not in possession of all the facts." In response thereto, on December 15, 1955, the Department stated:

"Your enclosures, \* \* \*, have been examined in the light of the evidence previously assembled. It has been concluded that they do not present new and material evidence as to the property damage sustained. An officer of the Government may modify or reverse a decision made by his predecessor in office only when newly discovered material evidence has been submitted, when the record reveals a manifest and patent mistake of fact, or upon showing of fraud or collusion.

"Since it does not appear that any of these conditions exist in this case, the decision rendered upon the claim of the Thomas Cruse Mining & Development Co. by the Under Secretary of War on October 19, 1944, may not be disturbed."

The act of July 3, 1943, *supra*, as amended, under which the claim of the Thomas Cruse Mining & Development Co. was



approved by the War Department in the amount of \$4,900.40, provides that the Secretary of War [now Secretary of the Army] may "consider, ascertain, adjust, determine, settle and pay in an amount not in excess of \$1,000, where accepted by the claimant in full satisfaction and final settlement, any claim against the United States arising on or after May 27, 1941, when such claim is substantiated in such manner as the Secretary of War [now Secretary of the Army] may by regulation prescribe, for damage to or loss or destruction of property \* \* \*, caused by military personnel or civilian employees \* \* \* of the Army while acting within the scope of their employment, or otherwise incident to noncombat activities \* \* \* of the Army." The act further provides that "The Secretary of War [now Secretary of the Army] may report such claims as exceed \$1,000 to Congress for its consideration." Inasmuch as the Congress by said act has provided a method for the settlement of claims of this character, as the evidence in this case fairly establishes that the Thomas Cruse Mining & Development Co. has sustained damages in the amount of only \$4,900.40 on account of the damage caused to its property on October 8, 1942, and as the claim of said company has been approved in that amount, provided that it will agree to accept such sum in full satisfaction and final settlement of its claim, there is no justifiable basis for the enactment of private relief legislation for its benefit as proposed by S. 2837. If the Thomas Cruse Mining & Development Co. will execute and file with the Department of the Army an acceptance agreement, agreeing to accept the sum of \$4,900.40 in full satisfaction and final settlement of its claim as required by the act of July 3, 1943, supra, its claim will be duly reported to the Congress in accordance with the provisions of said act for inclusion in a deficiency appropriation bill.

The Department of the Army recommends that S. 2837 not be favorably considered.

As mentioned before, a similar bill was postponed indefinitely by this committee in the 82d Congress and a similar bill was presented in the House in the 81st Congress. The committee files contain statements by various mining engineering concerns with respect to the replacement of the machinery destroyed. These figures varied from \$10,810, the amount of the instant bill, up to and including a figure of \$20,950. Additionally, the committee has in its files a letter from Mr. L. V. Harris who was the post claims officer at Fort Harrison, Mont., and who was originally assigned to the investigation of this claim for reconstruction of the property of the Thomas Cruse Mining & Development Co. Mr. Harris was of the opinion that inasmuch as the Army appraisal is the result of the investigation that this claim is "probably not entirely fair and that it was not based upon a full consideration of the facts involved."

The instant bill was the subject of a public hearing by a subcommittee on February 14, 1957, at which time testimony was taken from Lt. Col. Meredith E. Allen, on behalf of the United States Army, and Mr. Ferguson Fay, on behalf of the Thomas Cruse Mining & Develop-

ment Co. At that hearing it developed that the only point of difference in connection with the claim was the degree of damage caused by the activities of the United States Army. This is an area in which reasonable men may differ and, therefore, the committee, after considering all the evidence submitted on behalf of both parties, is of the opinion that \$7,500 constitutes fair and reasonable compensation to the claimant for the damages suffered through the activities of the Army, and so recommends to the Senate.

Attached hereto for the information of the Senate is a letter from the Department of the Army under date of March 23, 1956, submitted in connection with a similar bill of the 84th Congress, as well as other letters and material relating to the extent of damages, submitted by the claimant in this case. The transcript of the above referred to public hearing has been retained in the committee files and is available for inspection by interested parties.

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DEPARTMENT OF THE ARMY,  
Washington, D. C., March 23, 1956.

HON. JAMES O. EASTLAND,  
*Chairman, Committee on the Judiciary,*  
*United States Senate.*

DEAR MR. CHAIRMAN: Reference is made to the request of your committee for the views of the Department of the Army with respect to S. 2837, 84th Congress, a bill for the relief of the Thomas Cruse Mining & Development Co.

This bill provides as follows:

"That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Thomas Cruse Mining & Development Company, of Helena, Montana, the sum of \$10,800. Payment of such sum shall be in full settlement of all claims of such company against the United States arising when, on October 8, 1942, its mining mill located near Marysville, Montana, and the machinery and equipment therein, were extensively damaged as a result of demolition operations carried on by personnel of the United States Army."

The Department of the Army is opposed to the above-mentioned bill.

The records of the Department of the Army show that in October 1942, the Thomas Cruse Mining & Development Co., Helena, Mont., was the owner of a certain mining mill, with machinery and equipment, near Marysville, Mont. The Silver Crescent, Inc., had a lease on this property with an option to buy, which was then in full force and effect. The mill was of frame construction and was erected about 1893. The more valuable pieces of machinery and equipment on the property included one 2-stage steam-driven Ingersoll-Rand compressor, and one 1-stage Ingersoll-Rand compressor, 5 wooden settling tanks, and 1 set of boiler tubes. The First Special Service Force, United States Army, then stationed at Helena, Mont., was seeking places where actual blasting operations could be conducted by troops under that command then in training. Prior to October 8, 1942, written permission was obtained from the Silver Crescent, Inc., the lessee of the aforementioned mining property, with the approval of

the Thomas Cruse Mining & Development Co., the owner of the property, to break up by the use of explosives certain old machinery in this mill. It appears that the mill building and certain of the machinery were not to be destroyed in the blasting operations. Blasting operations were conducted on said mining property by troops of the First Special Service Force on October 8, 1942, and in the course of demolishing that which it was intended to destroy, and because of a fire which followed the explosions, the mill building and all of the machinery and equipment in connection therewith were severely damaged, including certain machinery which was not designated to be destroyed.

On October 27, 1942, the Thomas Cruse Mining & Development Co. filed a claim with the War Department (now Department of the Army) in the amount of \$10,810.40 for the damage caused to its mine building and certain machinery and equipment connected therewith as the result of the aforesaid blasting operations of the Army on October 8, 1942. The chief items of the claim consisted of \$5,000 for the damage to the two compressors, and \$2,500 for placing the mill equipment and a compressor in place and ready to operate. The War Department employed Mr. William R. Wade, of Marysville, Mont., a mining engineer of many years experience and who was thoroughly familiar with the property involved, to appraise the damage which had been sustained by the Thomas Cruse Mining & Development Co. Mr. Wade found that just prior to October 8, 1942, the mill was in a very poor state of repair and that the bulk of the machinery and equipment, particularly the large steam-driven compressor, was obsolete. It appears that the mill was revamped in 1906. The mill had not been in operation since 1916. It further appears that a Mr. Thornton, who had an option on the mine before the Silver Crescent, Inc., acquired its lease and option to buy, did not intend to use said mill at all because of its bad state of repair and the obsolete character of the steam-driven compressor and other equipment. The Silver Crescent, Inc., when it acquired a lease of the property, did not attempt to use either the large steam-driven compressor or the smaller compressor, and did not attempt to use the old mill in any respect, but took over another mill about 1½ miles away and spent substantial sums of money in remodeling that mill for use. After a thorough investigation Mr. Wade estimated that it would cost \$4,900.40 to restore the damaged property to the condition which it was in immediately prior to the blasting operations of October 8, 1942.

On October 19, 1944, the Under Secretary of War, acting for the Secretary of War, after a careful consideration of the entire record in this case, determined that the total damages sustained by the Thomas Cruse Mining & Development Co. as the result of the blasting operations of the United States Army on October 8, 1942, amounted to the sum of \$4,900.40 and approved its claim in that amount under the provisions of the act of July 3, 1943 (57 Stat. 372; 31 U. S. C. 223b), for report to the Congress for an appropriation for the relief of the claimant in said amount, provided that the claimant would agree to accept such sum in full satisfaction and final settlement of its claim. Thereafter on October 25, 1944, the Thomas Cruse Mining & Development Co. was advised by the War Department of the action taken on

its claim, at which time there was transmitted to the claimant an acceptance agreement to be signed on behalf of the company if it agreed to accept the sum of \$4,900.40 in full satisfaction and final settlement of its claim. Up to the present time the claimant has not agreed to accept the approved amount in settlement of the claim.

On November 7, 1955, the subject mining company submitted correspondence to the Department of the Army "in an effort to have the matter settled equitably." The company contended that the Department was "not in possession of all the facts." In response thereto, on December 15, 1955, the Department stated:

"Your enclosures, \* \* \*, have been examined in the light of the evidence previously assembled. It has been concluded that they do not present new and material evidence as to the property damage sustained. An officer of the Government may modify or reverse a decision made by his predecessor in office only when newly discovered material evidence has been submitted, when the record reveals a manifest and patent mistake of fact, or upon showing of fraud or collusion.

"Since it does not appear that any of these conditions exist in this case, the decision rendered upon the claim of the Thomas Cruse Mining & Development Co. by the Under Secretary of War on October 19, 1944, may not be disturbed."

The act of July 3, 1943, *supra*, as amended, under which the claim of the Thomas Cruse Mining & Development Co. was approved by the War Department in the amount of \$4,900.40, provides that the Secretary of War (now Secretary of the Army) may "consider, ascertain, adjust, determine, settle and pay in an amount not in excess of \$1,000, where accepted by the claimant in full satisfaction and final settlement, any claim against the United States arising on or after May 27, 1941, when such claim is substantiated in such manner as the Secretary of War [now Secretary of the Army] may by regulation prescribe, for damage to or loss or destruction of property \* \* \*, caused by military personnel or civilian employees \* \* \* of the Army while acting within the scope of their employment, or otherwise incident to noncombat activities \* \* \* of the Army." The act further provides that "The Secretary of War [now Secretary of the Army] may report such claims as exceed \$1,000 to Congress for its consideration." Inasmuch as the Congress by said act has provided a method for the settlement of claims of this character, as the evidence in this case fairly establishes that the Thomas Cruse Mining & Development Co. has sustained damages in the amount of only \$4,900.40 on account of the damage caused to its property on October 8, 1942, and as the claim of said company has been approved in that amount, provided that it will agree to accept such sum in full satisfaction and final settlement of its claim, there is no justifiable basis for the enactment of private relief legislation for its benefit as proposed by S. 2837. If the Thomas Cruse Mining & Development Co. will execute and file with the Department of the Army an acceptance agreement, agreeing to accept the sum of \$4,900.40 in full satisfaction and final settlement of its claim as required by the act of July 3, 1943, *supra*, its claim will be duly reported to the Congress in accordance with the provisions of said act for inclusion in a deficiency appropriation bill. The Department of the Army, therefore, recommends that S. 2837 be not favorably considered.



A report similar to the subject report was submitted on July 25, 1949, to the chairman, Committee on the Judiciary, House of Representatives on H. R. 5128, 81st Congress, a similar bill for the relief of this claimant. On February 12, 1951, this Department submitted a like report to the Attorney General in connection with S. 333, 82d Congress.

The cost of this bill, if enacted, will be \$10,800.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER,  
*Secretary of the Army.*

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LAW OFFICES OF SKEDD AND HARRIS,  
*Helena, Mont., January 31, 1956.*

In re claim of Thomas Cruse Mining & Development Co.

HON. HARLEY M. KILGORE,  
*Chairman, Senate Judiciary Committee,  
Senate Office Building, Washington, D. C.*

DEAR SENATOR KILGORE: Mr. Fergus C. Fay, of Helena, Mont., advises me that your Judiciary Committee has under consideration legislation to approve the claim of the above-named company in the amount of \$10,810.40, which was made against the United States Army on October 27, 1942, by reason of damages to certain mill and machinery caused by demolition operations of the Army near Marysville, Mont.

During 1943 and 1944, I was post claims officer at Fort Harrison, Mont., and this claim was assigned to me for investigation. During the time that I conducted my investigation, access to the mill where the damages occurred was difficult or impossible by reason of heavy snowfall and that condition continued to exist throughout the winter. For that reason, I did not inspect the premises and it was difficult for me to get anyone qualified to make an appraisal to inspect the premises.

Since I was required by the Army to complete my investigation and make my report within a limited time, I contacted a number of mining men in the vicinity of Helena and Marysville, Mont., in an attempt to locate someone who was familiar with the condition of the mill and equipment prior to the time the damage was done, as it was impossible to obtain appraisals of the property both before and after the damage. Several of the mining men I contacted who might have been qualified to make such appraisals of the property, declined to do so or were unavailable for the purpose for one reason or another. It developed that the only mining man I was able to locate who had some knowledge of the premises prior to the damage and who was willing to attempt an appraisal of the damages was W. R. Wade, of Marysville, Mont., and my recommendation resulting from the investigation was based solely upon Mr. Wade's findings of damages in the amount of \$4,900.

At the time of making the investigation, I considered that it was much less thorough and complete than was desirable and it is my belief that consideration should have been given to appraisals of the damage by more than one appraiser. By reason of the limitation of

time in completing the investigation and the limitations in obtaining additional appraisers, it is my belief that my recommendation for appraisal of the claim in the amount of only \$4,900 was probably not entirely fair and that it was not based upon a full consideration of the facts involved.

I am writing this letter as the result of a visit from Mr. Fay, but neither I nor any member of my firm has been employed to represent Mr. Fay or any of his interests, either in connection with this claim or in any other connection. I am writing this letter solely because I believe that further consideration should be given to the claim in the amount for which it was made.

Respectfully yours,

SKEDD, HARRIS & RISKEN,  
By L. V. HARRIS.

Copy to: Hon. James E. Murray, United States Senator, Senate Office Building, Washington, D. C.; Hon. Michael J. Mansfield, United States Senator, Senate Office Building, Washington, D. C.

THE THOMAS CRUSE MINING & DEVELOPMENT CO.,  
*Helena, Mont., January 30, 1956.*

Re JACD-55-16180.

CHESTER R. DAVIS,

*Assistant Secretary of the Army (FM),  
Washington, D. C.*

DEAR SIR: Reference is had to your letter of December 15, 1955, concerning the claim of the Thomas Cruse Mining & Development Co. for total destruction of its mill property by the Army on October 8, 1942.

Your attention is invited to the correspondence file on the matter. The amount of \$4,900.40 fixed by the Army is predicated, in its entirety, upon an appraisal by a Mr. William R. Wade. The preponderance of evidence as to the salvage value of the machinery destroyed has been consistently and, we believe, arbitrarily ignored.

In this connection your attention is invited to the affidavits submitted by the Cruse Co. on November 7, 1955. These are by reputable firms: Interstate Lumber Co., Montana Powder & Equipment Co., and Caird Engineering Works. Unless it can be said that the estimates made by these firms are greatly exaggerated, it is difficult to understand the position of the Army.

It is to be remembered that the act of total destruction by the Army was oppressive and unlawful. It destroyed the property of a citizen and now sits in judgment as to the value of the property so destroyed. The Army has repeatedly referred to a two-stage Ingersoll-Rand steam-driven compressor as "obsolete." A similar compressor, Ingersoll-Rand, is quoted by Caird Engineering Works, in their affidavit as of November 4, 1955, at a price of \$11,500 f. o. b. factory.

At no time has the Cruse Co. sought anything other than simple justice, which up to this time has been coldly denied.

If you will refer to a letter dated July 25, 1949, from the Secretary of the Army to Hon. Emanuel Celler, chairman of the Judiciary Committee of the House, you will find a statement on the first page of

this letter that the Army had secured permission "to break up by the use of explosives certain old machinery in the mill."

That statement is not entirely accurate, because it should have fully stated that assurance was given by the Army that the same could be accomplished without damage to the mill building itself or the other machinery therein.

Furthermore the Army specifically agreed to notify the company when the project would occur, in order that the company might have a representative present, and this they did not do.

There were two mills on the property, the Belmont mill across the mountain from the location of the Cruse mill. Permission had been granted to demolish the old Belmont mill in its entirety. Permission as to the Cruse mill, however, was confined to breaking up in place a 14,000-pound gyratory crusher, an old 250-horsepower Corliss steam engine, and an old-style electric generator.

What actually occurred was that the Army totally destroyed the Cruse mill, while the Belmont mill is still in place.

It seems obvious that the position of the Army derives from a conviction that the Cruse Co. granted permission for the demolition of the Cruse mill and is now using such permission as a profitable way to dispose of it.

When permission was given to the Army to demolish the old Belmont mill and to destroy the three pieces of unusable equipment in the Cruse mill, the Army assured the company the three items in the Cruse mill would be destroyed without damage to the building itself or the other machinery in said mill. Further, the Army assured the company that, prior to any use of explosives on the property, it would notify the company so that a representative would be present to be sure no mistake was made.

Contrary to this agreement, the Army demolished the Cruse mill without any notice to the company, but did not touch the old Belmont mill.

The Army has consistently taken the position that the machinery in the Cruse mill was only damaged, when the fact is that the mill building and all machinery therein were completely destroyed.

It must be apparent from the various estimates of reputable firms, that the claim of this company is just and honest. No attempt has been made to secure anything other than a moderate sum for the demolished property. The Army, upon receipt of the claim and upon the estimate of one man, assumed an arbitrary position from which it has never deviated.

Certainly a review of the file by an impartial body would conclusively prove the justness of the company's claim.

Very truly yours,

THE THOMAS CRUSE MINING &  
DEVELOPMENT CO.,  
SAM D. GOZA, *Vice President.*

Copy to: Hon. Harley M. Kilgore, chairman, Committee on the Judiciary, Senate of the United States; Hon. James E. Murray, Senate of the United States; Hon. Mike Mansfield, Senate of the United States.

THE THOMAS CRUSE MINING & DEVELOPMENT Co.,  
*Helena, Mont., January 14, 1955.*

HON. MIKE MANSFIELD,  
*United States Senate, Washington, D. C.*

DEAR MIKE: The efforts of Senator Murray and you on behalf of the Thomas Cruse Mining & Development Co. in introducing Senate bill 2837 are deeply appreciated.

Is there anything further this company can do to establish the fairness of the claim? We have sent, as you know, additional estimates of the damage, by three reputable firms, the Montana Powder & Equipment Co., Caird Engineering Co. and Interstate Lumber Co., all of Helena, whose officers were familiar with the property and the damage done and none of them had or have any financial connection with this company. Yet the Army, basing its award of \$4,900.40 on the estimate of one man, who, for the reasons stated in our former correspondence, we believe to be prejudicial to the interests of this company, refuses to consider the additional estimates.

Again with thanks for your efforts on our behalf, and with kindest regards, I remain,  
Sincerely yours,

FERGUS C. FAY, *Secretary-Treasurer.*

THE THOMAS CRUSE MINING & DEVELOPMENT Co.,  
*Helena, Mont., November 7, 1955.*

HON. MIKE MANSFIELD,  
*Senate Office Building, Washington, D. C.*

DEAR MIKE: You introduced H. R. 5128 in the 81st Congress relative to the matter enclosed. From reading correspondence that has recently come into my possession it is apparent that the Department of the Army based its approval in the amount of \$4,900.40 damages on the estimate of Mr. William R. Wade, a mining engineer of Marysville, Mont.

We have today written to the Judge Advocate General in an effort to have the matter settled equitably, as we feel that he, as well as the Committee on the Judiciary, to whom the H. R. 5128 was referred, were not in possession of all the facts. It appears eminently unfair to us to base the damage on an estimate of one man, whose interests were prejudicial to the interests of this company, especially when reputable mining machinery firms were available for further estimates.

At the time the damage was done, we were advised to put in a claim for twice the damage received, as the Army would cut it in half anyway. Mr. William Scallon, whom you well knew, was the attorney for the company at that time. He advised us to itemize the items and claim only what would be considered a fair appraisalment, and only on items that could be used. His advice was followed and a copy of our original items claimed is enclosed.

The other estimates enclosed are from reputable firms in Helena, made by people familiar with the damaged, or I should say, destroyed property.

May we have your help in bringing this to a conclusion, without resorting to court action, which is costly for all parties concerned?



Enclosed is a copy of each paper sent to the Advocate General for your information.

With kindest regards to your family, yourself, and, of course, Jimmy, I remain,

Sincerely yours,

FERGUS C. FAY.

THE THOMAS CRUSE MINING & DEVELOPMENT CO.,  
*Helena, Mont., November 7, 1955.*

OFFICE OF THE JUDGE ADVOCATE GENERAL,  
*Department of the Army, Washington 25, D. C.*

GENTLEMEN: Under the date of October 27, 1942, a claim for damages against the War Department was filed with Col. Robert T. Frederick, the then commanding officer of 1st Special Service Force, Fort Harrison, Helena, Mont.

The claim was for damages sustained by the Thomas Cruse Mining & Development Co., for the total destruction of the Cruse mill, located at Marysville, Mont., the amount of damages claimed being \$10,810.40.

Upon review by the War Department, and based mostly on an estimate of damage made by Mr. William R. Wade, a mining engineer of Marysville, Mont., the War Department approved the claim in the amount of \$4,900.40. This amount was inadequate and unacceptable for the following reasons:

1. The total destruction was done without the permission of this company or Silver Crescent, Inc, who then had a lease on the property. Further, no warning was given either company prior to the destruction. Permission had been granted to blow up a mill the other side of the mountain but this was not harmed.

2. Mr. William Scallon, the attorney for the company, advised us not to consider any obsolete machinery or equipment, but to claim damage only on usable items and necessary repairs to damaged buildings. Caird Engineering Co., of Helena, was asked to make an appraisal, but estimated a replacement of all machinery in the mill, when it was destroyed, at \$75,850. The claim submitted, however, was only \$10,810.40.

3. Mr. William R. Wade, who made the estimate for the War Department, had, sometime prior requested a lease on the property. The directors of the Cruse Co., considering the best interests of the company, awarded the lease to Silver Crescent, Inc. The writer is aware that this decision irritated Mr. Wade, and for this reason we have felt that the estimate made by him was prejudicial to our company. In fact, statements attributed to Mr. Wade in a letter written by Gordon Gray, Secretary of the Army, to Hon. Emanuel Celler, chairman, Committee on the Judiciary, House of Representatives, dated July 25, 1949, from which letter I quote, indicates prejudice:

"The Government engaged a technical expert, William R. Wade, who was thoroughly familiar with the property involved, to appraise the damages sustained by the Thomas Cruse Mining & Development Co. Mr. Wade found that just prior to October 8, 1942, the mill was in a very poor state of repair and that the bulk of the machinery and equipment, particularly the large steam-driven compressor, was obso-

lete. It appears that the mill was revamped in 1906. The mill had not been in operation since 1916. It further appears that a Mr. Thornton, who had an option on the mine before Silver Crescent, Inc., acquired its lease and option to buy, did not intend to use the mill involved at all because of its bad state of repair and the obsolete character of the steam-driven compressor or the smaller compressor. The Silver Crescent, Inc., when it acquired a lease of the property, did not attempt to use either the large steam-driven compressor or the smaller compressor, and did not attempt to use the old mill in any respect, but took over another mill about a mile and one-half away and spent substantial sums of money in remodeling that mill for use. After a thorough investigation, Mr. Wade estimated it would cost \$4,900.40 to restore the damaged property to the condition which it was in immediately prior to the blasting operations of October 8, 1942."

The only large item set forth in the claim of the Cruse Co. was the T-10 Ingersoll-Rand compressor, which Mr. Wade several times described as obsolete. The identical type of compressor, with some refinements, can be purchased from the same company today. The compressor was thoroughly oiled and greased and was in good usable condition. Mr. Guy E. Riegel, manager of Silver Crescent, Inc., intended to use the same by disconnecting the steam end and converting to electric-motor drive. This compressor had not been used long and had many years of service left in it.

The statement in the letter that the mill had not been in operation since 1916 is in error, as the mill was operated by Mr. Samuel and Robert O'Connell in the years 1926 and 1927.

Mr. Joseph S. Thornton, of Spokane, Wash., who had a lease on the property prior to Silver Crescent, Inc., had requested permission of the Cruse Co., to move the mill to another location on the property more suitable for the disposal of tailings. This was in 1938. Tailings from the mill had to be disposed of by ditches several miles into Demijohn Gulch, and was not satisfactory, which was the reason for the request to relocate the mill to a more favorable site. Silver Crescent had the same idea in mind and told the writer that the use of the other mill was temporary until the Cruse mill could be moved. If Silver Crescent, Inc., did not intend to use the mill, why was that company so insistent, when talking to officers from the 1st Special Service Force, that the building be not harmed, and that the compressor be not damaged?

4. We have requested three firms in Helena, whose officers were familiar with the property, to estimate what they thought would be a conservative value on the property destroyed, and we enclose a copy of each, and we respectfully request that these be considered as well as that of Mr. Wade, and comparison be made with the copy of our original claim. Caird Engineering Works, Interstate Lumber Co., and Montana Powder & Equipment Co. are all reputable firms of long standing in Helena, and none of them has any financial interest in the Cruse Co.

In view of the foregoing information and the additional estimates submitted, we respectfully request a reconsideration of the claim, and the awarding of a more equitable compensation for damages. We

trust in the fairness of your department, provided you are cognizant of all of the facts. We do not believe that settlement should be made on an estimate made by one who, we believe, was prejudiced for the reason stated before.

Should you desire further supporting evidence as to the facts contained in this letter, Mr. Robert O'Connell, who operated the mill in 1927, is county commissioner for Lewis and Clark County, and is available. Mr. John Brophy, of Marysville, Mont., is also familiar with the facts, having been employed by Mr. Wade at that time, and several others are available who will be glad to furnish testimony or affidavits to substantiate the statements in this letter.

We await your reply.

Very truly yours,

FERGUS C. FAY, *Secretary-Treasurer.*

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HELENA, MONT., June 7, 1949.

Hon. MIKE MANSFIELD,

*House Office Building, Washington, D. C.*

DEAR MIKE: This will acknowledge receipt of your letter of June 3 enclosing letter from The Judge Advocate General with reference to the claim of the Thomas Cruse Mining & Development Co., of Helena, Mont.

I would like to invite your attention to the fact that the same agency which occasioned the damage now sits in judgment of the amount of the damage which it caused.

I note that they take the position that \$4,900.40 is the value of the property which was destroyed. While I do not know precisely how they arrived at that figure, I do know that there is ample evidence to support the contention of the company that the damage was actually in the neighborhood of \$25,000.

Why the War Department elects to accept the view of their own so-called expert and reject the estimate of unbiased persons as to the cost of replacing the equipment is something that I am unable to understand.

For your information I am enclosing copy of a letter dated March 2, 1944, from a mining engineer who was familiar with the property. I believe the letter is self-explanatory.

I again want to state emphatically that the position of the War Department is entirely unfair. The damage was done by the 1st Special Service Force resulting in total destruction of a citizen's property. The Government of the United States has paid millions of dollars for foreign pigs, bicycles, cabbage crops, and everything under the sun and yet takes a lofty and disdainful view of an honest claim presented by a citizen for the needless destruction of his property. I believe that in all fairness the claim as presented by the company is eminently just and should by every moral right be paid in full.

I would appreciate your pressing the matter to that end.

Sincerely yours,

LEIF ERICKSON, *Attorney at Law.*

OCTOBER 27, 1942.

Col. ROBERT T. FREDERICK,  
*Commanding Officer, 1st Special Service Force,  
 Fort Harrison, Helena, Mont.:*

We, the Thomas Cruse Mining & Development Co., and Silver Crescent, Inc., herein file this statement of damages incurred at the Cruse mill, property of the Thomas Cruse Mining & Development Co., near Marysville, Mont., on the afternoon and evening of October 8, 1942. This damage came as a result of certain experimental blasting being conducted by the 1st Special Service Force of the United States Army under auspices of the Engineer Board of Fort Belvoir, Va.

We request immediate compensation in full for the following specific damages which were not authorized under the original permission for the experiment:

2 wooden settling tanks, 25 feet diameter by 15 feet high; 5,000 board-feet lumber in each; cost \$594.60 each, new; at \$297 each-----	\$594. 00
3 wooden settling tanks, 16 feet diameter by 24 feet high; 4,200 board-feet; cost each, new, \$511.60; at \$255.80 each-----	767. 40
1 wooden water tank 5 feet diameter by 6 feet high, 0.3 board-foot, cost \$30-----	15. 00
1 compressor, 2-stage, Ingersoll-Rand, Imperial type 10, class T-10, steam cylinders 24 inches by 16 inches by 16 inches stroke, air cylinders 23 inches by 13 inches by 16 inches stroke; cost new f. o. b. factory, \$9,380-----	5,000. 00
1 compressor, 1-stage, Ingersoll, size approximately 300 cubic feet-----	<sup>1</sup> 250. 00
1 crusher, gyratory, Gates Standard, size No. 1, serial 1522, cost new \$1,200; can be salvaged for approximately-----	480. 00
4 settling cones, Callow, 8 feet diameter by 6½ feet deep-----	120. 00
1 set boiler tubes, 46 tubes, 3 inches diameter by 12 feet long (unused), cost new \$250-----	125. 00
Tunnel No. 4 portal: Repair of walls, doors, and waterline-----	<sup>1</sup> 50. 00
Blacksmith shop: Repairs to walls and roof; replace 4 windows-----	<sup>1</sup> 50. 00
Compressor building: Repairs to walls, doors, and windows-----	50. 00
Carpenter shop: Repairs to walls, roof, doors, and windows-----	<sup>1</sup> 75. 00
Pipe shop: Repairs to walls, door, and windows-----	<sup>1</sup> 25. 00
Bunkhouse: Repairs to walls, door, and windows-----	<sup>1</sup> 100. 00
Bunkhouse No. 2: Repairs to walls, doors, and windows-----	<sup>1</sup> 50. 00
Dryhouse at No. 6: Repairs to roof, floor, and windows-----	23. 00
Mill timbers:	
Posts, 72, 8 inches by 8 inches by 25 feet-----	Board-feet 9,600
Girts, 634 lineal feet, 8 inches by 8 inches-----	3,381
Rafters, 72, 2 inches by 10 inches by 47 feet-----	5,640
Rafters, 25, 2 inches by 10 inches by 35 feet, cost \$24-----	1,459
Total-----	20,080
20,080 board-feet, at \$14-----	<sup>1</sup> 281. 00
Pole lagging: 225 pieces, 16 feet long, at 18 cents each-----	<sup>1</sup> 40. 00
Coal stove to heat compressor building-----	75. 00
Electric motor, ½-horsepower, 110-volt single-phase-----	50. 00
Miscellaneous tools, wrenches, etc., lost and misplaced at time of fire--	<sup>1</sup> 75. 00
Mine car taken from inside tunnel and rolled over dump as a prank by soldiers, cost of hauling to track and repairing-----	<sup>1</sup> 15. 00
Value of having mill building, mill equipment, and compressor in place and ready to operate with little repair-----	<sup>1</sup> 2,500. 00
Grand total-----	10,810. 40

<sup>1</sup> Amount agreed to by Lieutenant Sayre.

To our mind the true value of the mill and machinery on the place undamaged would be about \$25,000. A 250-horsepower Corliss



steam engine costs new \$10,000, but this and a 500-volt, 90-ampere generator were not listed because of the fact that we considered them obsolete. Other items not listed, such as pulleys and shafting, did have some value, but these we also overlooked.

In view of the fact that no permission was given for the total destruction done, we feel the claim, as presented, is more than just and does not compensate for the damage suffered.

Respectfully submitted.

(Signed) The THOMAS CRUSE MINING & DEVELOPMENT CO.,  
FERGUS C. FAY.  
SILVER CRESCENT, INC.,  
(Signed) CLYDE B. WHITE.

#### CERTIFICATION

I, Fergus C. Fay, hereby certify that the foregoing is a true and correct copy of the original claim as filed with the 1st Special Service Force, on October 27, 1942.

FERGUS C. FAY,  
*Secretary-Treasurer of the Thomas Cruse Mining & Development Co.*

NOTE.—Mr. Clyde B. White was the mining engineer in charge for Silver Crescent, Inc., at that time. His present address is care of Consolidated Mining & Smelting Co., Trail, British Columbia.

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#### AFFIDAVIT

STATE OF MONTANA,  
*County of Lewis and Clark, ss:*

I, Harold E. Longmaid, of 1030 Monroe Avenue, Helena, Mont., being first duly sworn, depose and say:

That I am the manager of the Interstate Lumber Co., of Helena, Mont., and have been in that position for the last 32 years;

That I had a lease on the Cruse-Belmont mine in Marysville, Mont., from January 1, 1927, to January 9, 1928, and that I was and am familiar with the Cruse mill located on the property, said mill having been blown up and burned in its entirety by act of the 1st Special Service Force on October 8, 1942;

That said mill was constructed during the 1890's and revamped in 1906. While old, the main part of the mill was in good condition and the construction was sound, with all main timbers in good to excellent condition. Several lean-to additions were in poor condition, but the original part was sound as the roof over that part was good and the building was in condition to be usable for many years;

I would say that to replace only the original part of the building at present costs would exceed \$15,000; and, at the time it was demolished in 1942, the building, exclusive of machinery, was worth at least \$75,000;

It is a well-known fact among mining men that a mill building on a property adds considerable to the property, especially if the timbers are sound and the construction solid as was this mill;

That this affidavit is made freely by me without any obligation due from me to the Thomas Cruse Mining & Development Co. or any of its officers or stockholders, as I have no interest of any kind in the company;

That I was asked by the Cruse Co. to estimate the value of the mill building at the time it was destroyed, as well as present replacement cost.

HAROLD E. LONGMAID.

Subscribed and sworn to before me this 3d day of November 1955.

[SEAL]

ETHEL ADAMS,

*Notary Public for State of Montana.*

My commission expires on March 18, 1957.

# AFFIDAVIT

MONTANA POWDER & EQUIPMENT CO.,  
*Helena, Mont.*

STATE OF MONTANA,

*County of Lewis and Clark, ss:*

I, W. T. McCullough, hereby affirm that I am the treasurer of the Montana Powder & Equipment Co., of Helena, Mont., which firm sells and deals in powder and mining machinery and equipment, and that—

The Thomas Cruse Mining & Development Co. has requested our firm to quote replacement prices on several items of equipment and machinery, which were destroyed in the Cruse mill at Marysville, Mont., by act of the 1st Special Service Force in 1942. The items and prices are as follows:

2 wooden settling tanks, 26-feet diameter by 15-feet high; \$900 each----	\$1, 800
3 wooden settling tanks, 16-feet diameter by 24-feet high; \$750 each----	2, 250
1 T-10 Ingersoll-Rand 2-stage compressors-----	12, 000
1 300-foot single-stage Ingersoll-Rand compressor-----	2, 300
1 No. 1 Gates gyratory ore crusher-----	2, 600

The above quoted prices are f. o. b. factories; transportation and installation costs would be additional.

The above machinery and tanks were at the mine at the time of the demolition, and the same were, I understand, in good, usable condition. A fair estimate of this equipment, although used but in place, would be about \$10,000.

The Montana Powder & Equipment Co. and the undersigned have no interest of any kind in the Cruse Co.

W. T. McCULLOUGH, *Treasurer.*

Subscribed and sworn to before me this 4th day of November 1955.

[SEAL]

L. A. WINSTON,

*Notary Public for the State of Montana, residing at Helena, Mont.*

My commission expires November 26, 1957.

HELENA, MONT., November 8, 1955.

THOMAS CRUSE MINING &amp; DEVELOPMENT CO.,

*Fergus C. Fay, Secretary, Helena, Mont.*

DEAR SIR: At your request we have inspected the books and records of the above-named company relative to the values listed in the books for the Cruse mill.

The mill was built in 1893 and was reconstructed during the years ending in 1906, at which time the cost was shown on the books to be \$128,775.40. This value was carried on the books at the time the Thomas Cruse Mining & Development Co. was incorporated and the total value of the claim, including the mill, was fixed at \$750,000.

In 1940 the claim was sold on a lease and bond, according to the minutes, for \$250,000 if paid within 5 years, and \$300,000 if paid at a later period. This would place the value of the mill at that time at \$51,510.

We have contacted Harold Longmaid, Jr., of Interstate Lumber Co., who was familiar with the property, and he has given us a figure of \$15,000 as the cost of replacing the building and a depreciated value of \$7,500.

We have also contacted Mr. G. A. Porte, of Caird Engineering Works, who was familiar with the mill equipment and he stated that a salvage value for the equipment would be \$10,800 at the time that it was destroyed.

Respectfully submitted,

MEAD, ANDERSON & Co.,  
*Certified Public Accountants,*  
H. O. MEAL, *Partner.*

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STATE COLLEGE, PA., March 2, 1944.

THOMAS CRUSE MINING &amp; DEVELOPMENT CO.,

*Fergus C. Fay, Secretary, Helena, Mont.*

DEAR SIR: You have asked me for my opinion as to the value of the Cruse mill that was burned at the No. 4 tunnel of the Cruse mine at Marysville, Mont.

At the time the mill was blasted and burned down by the 1st Special Service Force, I was general manager of the Silver Crescent, Inc., which company has an option to purchase your Marysville properties. I was well aware of the value of the mill and contained machinery to your company as well as to my own and was very sorry to see it destroyed.

The large compressor alone (with its concrete foundation) was worth nearly \$10,000. Besides this compressor there was a small one, which was also a total loss, a small crusher which will have to have considerable repair work done on it to restore it; all the piping, much of it up to 5 inches in diameter, has been distorted by the heat, and some 5 to 6 large wooden tanks were totally destroyed. The mill building itself was also worth considerable, not so much for the actual quantity of lumber, but for the labor of framing it and putting it in place.

Altogether, I think your company sustained a loss of at least \$25,000.

Yours very truly,

CLYDE B. WHITE, *Mining Engineer.*

*Summary of estimated damage*

Estimate of damages claimed by the Thomas Cruse Mining & Development Co., as per letter to Col. Robert T. Frederick, signed by Fergus C. Fay and Clyde B. White, mining engineer, dated October 27, 1942-----	\$10,810.40
Estimate of William R. Wade, mining engineer, said estimate approved by the War Department-----	4,900.40
Estimate of Harold E. Longmaid, manager of Interstate Lumber Co., of Helena, Mont., on the value of the main part of mill building at the time it was destroyed-----	7,500.00
Estimate of Harold E. Longmaid, on cost to replace only main part of mill building, at present time-----	15,000.00
Estimate of W. T. McCullough, treasurer of Montana Powder & Equipment Co., of Helena, Mont., on value of machinery and equipment only at time of destruction-----	10,000.00
Estimate of W. T. McCullough on replacement cost of machinery claimed, at the present time-----	20,950.00
Caird Engineering Co., George A. Porte, president, states the original claim as filed is far too conservative; claim filed-----	10,810.40
Estimate of Caird Engineering Co. on replacement of usable machinery items claimed-----	20,850.00
Letter of H. O. Mead, partner of Mead, Anderson & Co., certified public accountants of Helena, Mont., is self-explanatory. However, it places the value of the mill and machinery, at the time it was destroyed, at-----	18,300.00
Estimate of Montana Powder & Equipment Co. on the machinery and Interstate Lumber Co. on the main part of the mill adds to----	17,500.00

From the above, it should be apparent that the estimate of Mr. William R. Wade is considerably out of line with the other estimates of people just as familiar with the property as was he.

Respectfully submitted.

THE THOMAS CRUSE MINING & DEVELOPMENT CO.,  
FERGUS C. FAY, *Secretary-Treasurer.*

CAIRD ENGINEERING WORKS,  
*Helena, Mont.*

*To Whom It May Concern:*

We, the Caird Engineering Works, located at Helena, Mont, are in the business of buying, selling, and dismantling mining and milling machinery. On July 22, 1945, at the request of Mr. Fergus Fay, of the Thomas Cruse Mining Co., the writer made a trip to the mine located near Marysville and made a survey of the damage inflicted on October 8, 1942, by blasting operations being conducted by the 1st Special Service Force of the United States Army under auspices of the Engineer Board of Fort Belvoir, Va.

Following is a summary of the cost to replace the machinery destroyed, based on present-day prices:

20 only, stamps complete with plates-----	\$24,300
1 only, 250 rp Corliss engine-----	12,000
1 only, 2-stage Ingersoll-Rand compressor, direct steam-driven, steam cylinders 24 inches by 16 inches by 16 inches, air cylinders 23 inches by 13 inches by 16 inches, cost f. o. b. factory-----	11,500
1 only, 300-cubic-foot, single-stage, Ingersoll, direct steam-driven compressor at plant-----	2,250
1 only, No. 1 Gates gyratory crusher at plant-----	2,600
1 only, No. 3 Gates gyratory crusher, weight 14,000 pounds-----	3,200
4 only, boilers, approximate cost-----	12,000
1 only, 500-volt, 50 horsepower generator-----	3,300



2 only, 25 feet by 15 feet wood tanks.....	1,800
3 only, 16 inches by 24 inches wood tanks.....	2,250
4 only, callow settling cones, 8-foot diameter by 6½ inches deep.....	450

The above does not include cost of installing the above-mentioned equipment but is the cost f. o. b. cars at Helena, Mont.

G. A. PORTE,  
*Treasurer and Manager.*

STATE OF MONTANA,

*County of Lewis and Clark, ss:*

On this 28th day of September 1945, before me, Henry A. Yaeger, a notary public for the State of Montana, personally appeared G. A. Porte, known to me to be the person whose name is subscribed to the above instrument, and acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

[SEAL]

HENRY A. YAEGER,

*Notary Public for the State of Montana, residing at Helena, Mont.*

My commission expires April 23, 1947.

#### AFFIDAVIT

STATE OF MONTANA,

*County of Lewis and Clark, ss:*

I, W. M. McClean, being first duly sworn, state that I am a construction engineer residing at Helena, Mont.; that I have been connected with mill construction since the year 1898, in Montana and elsewhere but mostly in Montana; that I worked for the Gates Iron Works in the engineering department; that since 1898 I have designed and superintended the construction of many ore-milling plants and have operated most of them until they were on a satisfactory operating basis; that I have no personal or other interest in the Thomas Cruse Mining & Development Co., except as stated below;

That I was requested by Fergus C. Fay, secretary of the Thomas Cruse Mining & Development Co., to make an estimate on the cost of construction of the Cruse mill in Marysville and an estimate on the damage done to the same mill by the 1st Special Service Force. I visited the site of the mill and noted the total destruction. I then obtained blueprints of the said mill and my figures, attached hereto and based on costs at the time of construction, are substantially correct for that time, but do not reflect present costs, which would be much higher. I figure that the main building, not including additions, which was not in bad condition about 8 years ago, when I last saw it, allowing for reasonable depreciation, would have a value to the property of somewhere between \$25,000 and \$35,000.

W. M. McCLEAN.

STATE OF MONTANA,

*County of Lewis and Clark, ss:*

On this ----- day of August 1944, before me, Henry A. Yaeger, a notary public for the State of Montana, personally appeared W. M.

McClean, known to me to be the person whose name is subscribed to the above instrument, and acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

[SEAL]

HENRY A. YAEGER,

*Notary Public for the State of Montana, Residing at Helena, Mont.*

My commission expires April 23, 1947.

*Estimated cost of the Thomas Cruse Mining & Development Co. milling plant located at the Bald Mountain mine, Maryville, Mont.*

Amount	Item	Cost
128,591 feet	Lumber at \$14 per thousand board-feet	\$1,800.27
	Labor on construction at \$25 per thousand board-feet	3,214.77
	Hardware and tools	1,025.00
92,000	Shingles, at \$3.25	299.00
	Labor, shingling at \$1.50 per thousand	138.00
92 squares	Tar paper, at 50 cents per square	46.00
72 only	Mill sash windows, at \$2.50	180.00
72 only	Window frames at \$2	144.00
20 only	Stamps complete with plates	16,250.00
	Installing stamps	500.00
1 only	250-horsepower Corliss engine	8,257.50
	Installing labor and materials	578.00
1 only	2-stage Ingersoll-Rand compressor, direct steam-driven, steam cylinders 24 inches by 16 inches by 16 inches, air cylinders 23 inches by 13 inches by 16 inches, cost f. o. b. factory	9,380.00
	Railroad freight and moving to mill	675.00
	Installing at 15 percent of cost	1,407.00
1 only	300 cubic feet, single-stage, Ingersoll, direct steam-driven compressor at plant	600.00
	Installing	75.00
1 only	No. 1 Gates gyratory crusher at plant	1,200.00
	Installing at \$25 per ton, weight 5,500 pounds	68.75
1 only	No. 3 Gates gyratory crusher, weight 14,000 pounds	1,460.00
	Freight and moving to mill	560.00
	Installing at \$25 per ton	175.00
1 only	Main drive shaft, 6 inches diameter by 16 feet long	129.60
1 only	Line shaft, 5 inches diameter by 19 feet long	123.70
1 only	Line shaft, 3 1/4 inches diameter by 22 feet long	91.08
2 only	Flange couplings, 6 inches bore, extra heavy	111.00
2 only	Flange couplings, 5 inches bore	88.00
2 only	C. I. pulleys, 30 inches by 14 inches	45.00
1 only	C. I. pulleys, 48 by 26 inches	89.50
2 only	C. I. pulleys, 72 by 25 inches	124.60
1 only	C. I. pulley, 36 by 18 inches	36.40
3 only	5-inch rigid pillow blocks	54.00
4 only	3 1/4-inch rigid pillow block	44.00
	Steam and water pipe and fitting and labor installing for powerplant	1,065.00
1 only	Feed-water pump	135.00
1 only	Feed-water heater	225.00
4 only	Boilers, approximate cost	1,500.00
	Labor, brick, and other materials	1,133.50
2,342 yards	Excavating at 75 cents per yard	1,756.50
1 only	500-volt, 50-horsepower generator	1,000.00
2 only	25 feet by 15 feet wood tanks, cost today \$886 each, cost then \$594 each	1,188.00
3 only	16 feet by 24 feet wood tanks, present cost, \$743.40 each	1,534.80
1 only	5 feet by 6 feet wood tank	30.00
	Installing 6 tanks, labor	237.00
	Freight railroad and wagon hauling to site	586.00
4 only	Calow settling cones, 8 feet diameter by 6 1/2 inches deep	320.00
	Installing, labor \$20 each	80.00
84 feet	14 inches, 6-ply rubber belt, at \$2.50 per foot	210.00
75 feet	24 inches, 7-ply rubber belt, main drive, at \$5 per foot	375.00
65 feet	10 inches, 6-ply rubber belt, at \$1.40 per foot	91.00
	Total	60,436.97
	To this figure should be added 10 percent for supervision and incidental expenses.	6,043.70
	Net total estimated cost	66,480.67

(Signed) W. M. McCLEAN, *Construction Engineer.*

## AFFIDAVIT

STATE OF WASHINGTON,

*County of Spokane, ss:*

The undersigned, being first duly sworn, deposes and says that he was the president and general manager of Silver Crescent, Inc., an Idaho corporation, during the year 1942 and still is at this date. That he is acquainted with most of the facts concerning the destruction of the mill and equipment contained therein at the Cruse-Belmont mine at Marysville, Mont., on October 8, 1942, by the 1st Special Service Force, Fort Harrison, Mont.

That Silver Crescent, Inc., had from time to time refused their consent for the dismantling of any equipment from the mill, feeling that everything we could eventually use would be that much to us. However, by refusing numerous requests for some obsolete items, we began to hear rumors that our company was unpatriotic, so we consented to the removal of certain items, designating which items should remain intact, thinking at the time that the removal of certain items would be of some assistance when we began rebuilding the mill into a modern type, as we had contemplated when the mine was first taken over. At that time we leased the Drumlummon mill for a short duration as we were anxious to get in production quickly, using the Drumlummon mill during the process of rebuilding the old mill, thus eliminating a heavy trucking expense, etc.

Prior to closing down the mine under Government Order L-208, Silver Crescent Inc., had begun clearing the mill building. Several large rosewood cyanide tanks had been disassembled, cleaned, and stacked outside for future reassembling. These were burned by the fire which followed the explosion.

Had this company refused their consent the property would be intact today, thus eliminating this controversy and to one acquainted with the facts it is hardly conceivable by the greatest stretch of imagination that those concerned have not suffered the full amount of the claim or more.

SILVER CRESCENT INC.,

By GUY E. RIEGEL, *President.*

Subscribed and sworn to me this 17th day of February 1945.

[SEAL]

L. J. CRAMER,

*Notary Public in and for the State of Washington, Residing  
in Spokane.*

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The following is a list of the names of the members of the American Medical Association who have been elected to the office of President for the year 1936. The names are listed in alphabetical order of their last names.

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